IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1148 OF 2007
IN
CRIMINAL APPEAL NO. 1015 OF 2007

Dattatraya s/o Vishwanath Shounak ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr. P.K. Joshi with Mr. C.M. Lokesh for applicant.
Mr. A.S. Shitole, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 22, 2007.

P.C.:

1. Heard Mr. Joshi the learned counsel for the applicant and Mr. Shitole, the learned APP for the State. Perused the depositions of PW 3 - Shri Shashikant Nagbidkar, Sales Tax Inspector at the relevant time and a panch witness and PW 5 - Shri Shaikh Ismail, Deputy S.P., ACB, at the relevant time. Mr. Joshi the learned counsel for the applicant in support of his plea for bail has pointed out that during the trial the applicant was on bail all along, he has not misused or violated any terms of the bail and on conviction for the offences punishable under

Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 he has been sentenced to suffer RI for three years on each count and to pay a fine of Rs.5000/- for the first charge and Rs.10,000/- for the second charge. Mr. Joshi placed reliance on the decisions in the case of Babu Singh and ors. vs. The State of Uttar Pradesh [AIR 1978 SC 527] and in the case of Bhagwan Rama Shinde Gosai and ors. vs. State of Gujarat [AIR 1999 SC 1859] in support of his plea for being released the applicant on bail by suspending the order of sentence under Section 389 of Cr.P.C. Mr. Joshi gave up the prayer for suspending the order of conviction and has pointed out that the applicant is presently under suspension and he is due to retire within 10 months time. The trap was a pre-planned trap at the instance of some disgruntle officers/public representatives and the applicant was victimised. He also pointed out that as per the complainant the bribe demand was made on 7/2/2002 at 11 p.m. of Rs.10,000/- from each contractor. Again on telephone the demand was repeated on 10/2/2002. As per Mr.Joshi the accused was with the District Collector on 7/2/2002 at 11 p.m. and not in his office. He, therefore, submitted that the demand of

bribe was not proved.

2. Having regards to the fact that the applicant was on bail during the trial, he has deposited the fine amount, he is due to retire shortly and he is under suspension, it will be just and proper that the applicant is released on bail. Mr.Shitole pointed out that the trap has been prima facie proved. I have perused the depositions of PW 3 and these issues require considerations which will be done in the pending appeal.

3. Hence, the application is allowed and the applicant is directed to be released on bail, if not required in any other case, during the pendency of the appeal on the same terms as before the trial court but on fresh bonds.

(B.H. Marlapalle,J.)